

REMARKS

The Office Action contains a Restriction Requirement contending that claims 38-45 directed to a method of cooling cheese utilizing cooling cells is a distinct invention from claims 46-49 directed to an apparatus for cooling cheese a plurality of cooling cells. The rationale for the Restriction Requirement is that “the apparatus as claimed can be used to practice another and materially different process, such as cooling plastic molds.”

In response, apparatus claims 46-49, and specifically independent claim 46, have been amended to recite a mechanism which places a plurality of cheese blocks sequentially into different ones of the plurality of cooling cells. This new element of the apparatus mirrors the step of the method in claim 38 for “placing a plurality of cheese blocks sequentially into different sections of a tank”. Of particular significance is that the mechanism of the apparatus places a plurality of cheese blocks into the cells of the tank. It does not place plastic molds or anything else into the tank. Therefore, the apparatus can not be used to practice another and materially different process than that recited in the method claims. As a result the amendment renders the Restriction Requirement moot.


In the event that the Examiner should not agree that the Restriction Requirement is overcome, Applicant elects claims 38-45, directed to the method of cooling cheese, to be examined. However, in this circumstance applicant reserves the right to appeal such a decision of the Examiner on the Restriction Requirement.

Conclusion

Reconsideration and allowance of the present application are requested.

Respectfully submitted,
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